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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

DA 95-1706

In the Matter of	)	
	)	CC Docket No. 93-162
Bell Atlantic Telephone Companies	)	
Revisions to Tariff F.C.C. No. 1	)	Transmittal Nos. 780, 784

**ORDER**

Adopted: July 31, 1995; Released: August 1, 1995

By the Chief, Tariff Division, Common Carrier Bureau:

1. On May 16, 1995, the Bell Atlantic Telephone Companies (Bell Atlantic) filed Transmittal No. 780 to revise their Tariff F.C.C. No. 1. Transmittal No. 780, which is scheduled to become effective on August 3, 1995, provides construction charges for implementing physical collocation arrangements in several Bell Atlantic central offices.<sup>1</sup> Transmittal No. 780 provides that the interconnector pays 50 percent of the estimated construction costs prior to commencement of construction, and the remaining portion, based on actual expenses, once construction is complete. The construction activities include refurbishment of the physical collocation area, installation of security devices, and upgrading of existing power facilities and ventilation systems. Subsequent to this filing, Bell Atlantic filed Transmittal No. 784, which includes a number of revisions to the provisions filed under Transmittal No. 780.<sup>2</sup>

2. On May 31, 1995, MFS Communications Company, Inc. (MFS) filed a petition to reject, or alternatively, to suspend and investigate Bell Atlantic Transmittal No. 780, while MCI Telecommunications Corporation (MCI) filed a petition to suspend and investigate the tariff on that same date. Bell Atlantic replied on June 12, 1995.

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<sup>1</sup> These central offices are located in: Washington, D.C.; Newark, New Jersey; Union City, New Jersey; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; and Wilmington, Delaware.

<sup>2</sup> In Transmittal No. 784, Bell Atlantic changes the name of a customer, adds a customer, and adjusts a cost figure. Each of these adjustments pertain to the physical collocation construction charges previously filed under Transmittal No. 780.

3. MFS maintains that Bell Atlantic's tariff revisions ignore the established dispute resolution procedure based on recourse to the Common Carrier Bureau.<sup>3</sup> MFS contends that Bell Atlantic's attempted unilateral imposition of physical collocation charges lack adequate cost support, establish excessive rates for a service which will be withdrawn the day after the rates are effective, and will lead to the unjust enrichment of Bell Atlantic and double recovery from MFS.<sup>4</sup> MFS argues that under the proposed tariff revisions, the first interconnector would pay 100 percent of the costs for establishing a collocation arrangement, including the cost of central office improvements, and is foreclosed from obtaining any refunds from subsequent interconnectors. MFS claims that this provision is inconsistent with the pro-rata refund structure in Bell Atlantic's current tariff. MFS also maintains that the Commission should consider allowing Bell Atlantic to recover costs associated with the provision of physical collocation as exogenous cost adjustments under the Commission's price cap rules.<sup>5</sup>

4. MCI contends that Bell Atlantic should not be able to charge interconnectors for construction expenses incurred in the preparation of physical collocation facilities that were never used.<sup>6</sup> Additionally, MCI maintains that the construction charges that Bell Atlantic wants interconnectors to pay are for facilities that are not technically necessary. MCI also argues that Bell Atlantic's imposition of a "no refund" policy is an attempt to penalize interconnectors for seeking to implement the Commission's expanded interconnection policies.<sup>7</sup>

5. Bell Atlantic replies that even if the alleged problems with its tariff were valid, which they are not, the Commission is without power to delay withdrawal of physical collocation.<sup>8</sup> Bell Atlantic contends that the costs for reconfiguring its central offices for physical collocation are properly charged to the interconnectors. Bell Atlantic maintains that interconnectors are paying only the actual costs that Bell Atlantic incurred in reconfiguring

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<sup>3</sup> MFS Petition at 3. MFS notes that Bell Atlantic's tariff revisions require payment for physical collocation construction, even though MFS is currently disputing these charges before the Commission. See "Notice of Ex Parte Contact by MFS Communications Company, Inc., in CC Docket No. 91-141," from Jonathan E. Canis, Attorney, MFS Communications Company, to Acting Secretary, FCC, dated May 25, 1995.

<sup>4</sup> MFS Petition at 3.

<sup>5</sup> *Id.* at 5-7.

<sup>6</sup> MCI Petition at 3.

<sup>7</sup> *Id.* at 4-5.

<sup>8</sup> Bell Atlantic Reply at 6.

its central office space to meet orders for physical collocation. Additionally, Bell Atlantic does not agree with MFS that these costs should be given exogenous treatment. Finally, Bell Atlantic argues that the no refund provision in its filing is consistent with the provision in its existing tariff, and that MFS was responsible for the entire cost of construction in many cases because MFS was the only interconnector in the central office.<sup>9</sup>

6. Bell Atlantic Transmittal Nos. 780 and 784 raise the same issues regarding rate levels, rate structures, and terms and conditions of service as those identified in the *Physical Collocation Tariff Suspension Order*.<sup>10</sup> Therefore, Transmittal Nos. 780 and 784 are suspended for one day, following the effective date, and will be subject to the investigation initiated in the *Physical Collocation Tariff Suspension Order*. The rates in this transmittal are also subject to an accounting order to facilitate any refunds that may later prove necessary.

7. Accordingly, IT IS ORDERED that the petition to reject, or suspend and investigate, Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 780, filed by MFS Communications Company, Inc., IS GRANTED to the extent indicated above, and otherwise IS DENIED.

8. IT IS FURTHER ORDERED that the petition to suspend and investigate Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 780, filed by MCI Telecommunications Corporation, IS GRANTED.

9. IT IS FURTHER ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and Section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, the revisions to Bell Atlantic Telephone Companies F.C.C. No. 1, Transmittal No. 780, ARE SUSPENDED for one day and an investigation of the referenced tariff transmittal IS INSTITUTED.

10. IT IS FURTHER ORDERED that Section 19.6.2., which was filed under Bell Atlantic Transmittal No. 784 and which adds to and revises associated physical collocation provisions filed under Transmittal No. 780, IS SUSPENDED for one day and an investigation of the referenced provision IS INSTITUTED.

11. IT IS FURTHER ORDERED that Bell Atlantic Telephone Companies SHALL FILE tariff revisions within five business days of the release date of this Order to reflect this suspension.

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<sup>9</sup> *Id.* at 2-4.

<sup>10</sup> Ameritech Operating Companies, *et. al.*, CC Docket No. 93-162, Order, 8 FCC Rcd 4589 (1993) (*Physical Collocation Tariff Suspension Order*).

12. IT IS FURTHER ORDERED that, for these purposes, we waive Sections 61.56, 61.58, and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.56, 61.58, and 61.59. Bell Atlantic Telephone Companies should cite the "DA" number of the instant Order as the authority for this filing.

13. IT IS FURTHER ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), Bell Atlantic Telephone Companies shall keep accurate account of all amounts received by reason of the rates that are the subject of this investigation.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "Geraldine A. Matis".

Geraldine A. Matis  
Chief, Tariff Division  
Common Carrier Bureau